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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/073,027	02/12/2002	Keizoh Kawaguchi	111955	3081
25944	7590	03/09/2004	EXAMINER	
OLIFF & BERRIDGE, PLC			KIM, SUN U	
P.O. BOX 19928			ART UNIT	
ALEXANDRIA, VA 22320			PAPER NUMBER	

1723

DATE MAILED: 03/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/073,027

Applicant(s)

KAWAGUCHI, KEIZOH

Examiner

John Kim

Art Unit

1723

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 December 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-14 and 16-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-7,10,13 and 14 is/are rejected.
- 7) ☒ Claim(s) 8,9,11,12 and 16-19 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 February 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Art Unit: 1723

1. Claims 1 and 4 are objected to because of the following informalities: "or" on line 8 of claim 1 should be changed to --and-- following a phrase "being any one of" on line 5. On line 15 of claim 1, "determining means" should be inserted between "rate" and "displayed". On line 16 of claim 1, "dialzyer" should be corrected to --dialyzer--. "or" on line 9 of claim 4 should be changed to --and-- following a phrase "being any one of" on line 6.

Appropriate correction is required.

2. Claims 1, 3-7, 10 and 13-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,200,485 (hereinafter referred to as Kitaevich et al) in view of European Patent Application No. 0993803 (hereinafter referred to as EP '803). Kitaevich et al teach a dialyzing apparatus comprising a dialyzer (24) which removes water from blood, an arteriosclerosis-related-information obtaining device such as blood pressure and heart rate monitors (120, 130), a controller (12) for gathering blood pressure and heart rate data independently or in combination with weight signals from infusate, drained fluid and patient weight and determining drained fluid rate based on above gathered data and changing water removal rate by manual or automatic mode to control flow rate of drain pump (66) i.e. dialyzer control device and display (13) for displaying measured data and computed parameters (see figure 2; col. 2, lines 59-62; col. 2, line 45 – col. 4, line 48; col. 5, lines 40-62; col. 7, lines 23-27; col. 7, line 63 – col. 9, line 47). Claims 1, 3-7, 10 and 13-14 essentially differ from the apparatus of Kitaevich et al in reciting that the arteriosclerosis-related-information obtaining device comprises a pulse-wave-propagation-velocity-related-information obtaining device. Kitaevich et al teach that patient blood pressure is monitored (see figure 2). EP '803 teaches a blood pressure monitoring apparatus which obtains a piece of information relating to propagation

Art Unit: 1723

of a pulse wave through an arterial vessel of a subject including pulse wave propagation velocity, pulse-wave propagation time, a waveform of a pulse wave detected in an artery, a ratio of one of a pulse pressure and a blood pressure to the other and a transfer function of a pulse wave which propagates through an artery (see figures 2-9; abstract; col. 1, line 5 – col. 8, line 17). It would have been obvious to a person of ordinary skill in the art at the time the invention was made to substitute a pulse-wave propagation-related-information obtaining device of EP '803 for the blood pressure monitor of Kitaevich et al for measuring patient's blood pressure.

3. Claims 4-5 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,370,123 (hereinafter referred to as Shinzato) in view of EP '803. Shinzato teaches a dialyzing apparatus comprising a dialyzer (10) which removes water from blood, an arteriosclerosis-related-information obtaining device such as blood pressure measuring means such as pressure transducer (34), a control device (32) i.e. water-remove-rate changing means connected to the blood pressure transducer (34) and controlling a control device (24) for dialysate supply and water removal based upon the compared value of measured blood pressure and reference value (see figure 1; col. 2, line 65 – col. 3, line 3; col. 4, lines 52-65; col. 6, line 42 – col. 7, line 36). Claims 4-5 and 10 essentially differ from the apparatus of Shinzato in reciting that the arteriosclerosis-related-information obtaining device comprises a pulse-wave-propagation-velocity-related-information obtaining device. EP '803 teaches a blood pressure monitoring apparatus which obtains a piece of information relating to propagation of a pulse wave through an arterial vessel of a subject including pulse wave propagation velocity, pulse-wave propagation time, a waveform of a pulse wave detected in an artery, a ratio of one of a pulse pressure and a blood pressure to the other and a transfer function of a pulse wave which

Art Unit: 1723

propagates through an artery (see figures 2-9; abstract; col. 1, line 5 – col. 8, line 17). It would have been obvious to a person of ordinary skill in the art at the time the invention was made to substitute a pulse-wave propagation-related-information obtaining device of EP '803 for the blood pressure measuring means of Shinzato for measuring patient's blood pressure.

4. Claims 4-5 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,718,891 (hereinafter referred to as Lipps). Lipps teaches a dialyzing apparatus comprising a dialyzer (16) which removes water from blood, an arteriosclerosis-related-information obtaining device such as blood pressure monitor (14), a control device (10) i.e. water-remove-rate changing means controlling ultrafiltration rate i.e. water removal rate when blood pressure deviates from the initial readings by more than preselected amounts (see col. 3, line 48 – col. 7, line 11). Claims 4-5 and 10 essentially differ from the apparatus of Lipps in reciting that the arteriosclerosis-related-information obtaining device comprises a pulse-wave-propagation-velocity-related-information obtaining device. EP '803 teaches a blood pressure monitoring apparatus which obtains a piece of information relating to propagation of a pulse wave through an arterial vessel of a subject including pulse wave propagation velocity, pulse-wave propagation time, a waveform of a pulse wave detected in an artery, a ratio of one of a pulse pressure and a blood pressure to the other and a transfer function of a pulse wave which propagates through an artery (see figures 2-9; abstract; col. 1, line 5 – col. 8, line 17). It would have been obvious to a person of ordinary skill in the art at the time the invention was made to substitute a pulse-wave propagation-related-information obtaining device of EP '803 for the blood pressure monitor of Lipps for measuring and monitoring patient's blood pressure.

Art Unit: 1723

5. Claims 16, 17, 18 and 19 are objected to under 37 CFR 1.75 as being a substantial duplicate of claims 9, 8, 12 and 11 respectively. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).
6. Claims 8-9 and 11-12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
7. Applicant's arguments with respect to claims 1, 3-14 and 16-19 have been considered but are moot in view of the new ground(s) of rejection.
8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.


Art Unit: 1723

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Kim whose telephone number is (571) 272-1142. The examiner can normally be reached on weekdays from 7:00 AM - 3:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wanda Walker, can be reached on (571) 272-1151. The fax phone number for official response is (703) 872-9306.

When sending a draft amendment by fax, please mark the paper as "DRAFT"; otherwise, mark the paper "OFFICIAL". This will expedite the processing of the paper.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0651.


John Kim
Primary Examiner
Art Unit 1723

J. Kim
March 3, 2004